

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

MATHEW NEISLER,

Petitioner,

-vs-

Case No. 13-C-826

**WILLIAM POLLARD, Warden, Waupun
Correctional Institution,**

Respondent.

DECISION AND ORDER

This matter comes before the Court for an initial review pursuant to Rule 4 of the Rules Governing Section 2254 Cases. The petitioner, Mathew Neisler, is challenging a conviction that was entered way back in 1994, so the instant petition is untimely by a very wide margin. 28 U.S.C. § 2244(d)(1). It is also apparent that Neisler failed to exhaust his state court remedies. Neisler did not pursue a direct appeal from his conviction, then he waited until 2011 to file a motion for the production of documents, which was denied in the circuit court. It is unclear how this motion relates to the claims Neisler asserts in his federal habeas petition, but it is abundantly clear that Neisler failed to give the state court any sort of chance to adjudicate those claims. “A petitioner must raise his constitutional claims in state court ‘to alert fairly the state court to the federal nature of the claim and to permit that court to adjudicate squarely that federal issue.’ The failure to present fairly each habeas claim in state court ‘leads to a default of the claim[s]’ and ‘bar[s] the federal

court from reviewing the claim[s'] merits.”” *Weddington v. Zatecky*, 721 F.3d 456, 466 (7th Cir. 2013).

Therefore, since it appears from the face of the petition that Neisler is not entitled to relief, this matter is **DISMISSED**. The Court will not issue a certificate of appealability. Rule 11(a), Rules Governing Section 2254 Proceedings. The Clerk of Court is directed to enter judgment accordingly.

Dated at Milwaukee, Wisconsin, this 5th day of November, 2013.

BY THE COURT:


HON. RUDOLPH T. RANDA
U.S. District Judge